

Social Security Administration

§416.1201

of the Veterans Benefits and Health Care Improvement Act of 2000 (Pub. L. 106-419 (38 U.S.C. 1833(c))).

(m) Payments of the refundable child tax credit made under section 24 of the Internal Revenue Code of 1986, pursuant to section 203 of the Economic Growth and Tax Relief Reconciliation Act of 2001, Public Law 107-16 (115 Stat. 49, 26 U.S.C. 24 note).

(n) Assistance provided for flood mitigation activities as provided under section 1324 of the National Flood Insurance Act of 1968, pursuant to section 1 of Public Law 109-64 (119 Stat. 1997, 42 U.S.C. 4031).

(o) Payments made to individuals under the Energy Employees Occupational Illness Compensation Program Act of 2000, pursuant to section 1 [Div. C, Title XXXVI section 3646] of Public Law 106-398 (114 Stat. 1654A-510, 42 U.S.C. 7385e).

[45 FR 65547, Oct. 3, 1980, as amended at 52 FR 8888, Mar. 20, 1987; 57 FR 53851, Nov. 13, 1992; 57 FR 55088, Nov. 24, 1992; 59 FR 8538, Feb. 23, 1994; 62 FR 30982, June 6, 1997; 70 FR 41137, July 18, 2005; 75 FR 1273, Jan. 11, 2010]

Subpart L—Resources and Exclusions

AUTHORITY: Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, 1383, and 1383b); sec. 211, Pub. L. 93-66, 87 Stat. 154 (42 U.S.C. 1382 note).

SOURCE: 40 FR 48915, Oct. 20, 1975, unless otherwise noted.

§416.1201 Resources; general.

(a) *Resources; defined.* For purposes of this subpart L, resources means cash or other liquid assets or any real or personal property that an individual (or spouse, if any) owns and could convert to cash to be used for his or her support and maintenance.

(1) If the individual has the right, authority or power to liquidate the property or his or her share of the property, it is considered a resource. If a property right cannot be liquidated, the property will not be considered a resource of the individual (or spouse).

(2) Support and maintenance assistance not counted as income under §416.1157(c) will not be considered a resource.

(3) Except for cash reimbursement of medical or social services expenses already paid for by the individual, cash received for medical or social services

that is not income under §416.1103 (a) or (b), or a retroactive cash payment which is income that is excluded from deeming under §416.1161(a)(16), is not a resource for the calendar month following the month of its receipt. However, cash retained until the first moment of the second calendar month following its receipt is a resource at that time.

(i) For purposes of this provision, a retroactive cash payment is one that is paid after the month in which it was due.

(ii) This provision applies only to the unspent portion of those cash payments identified in this paragraph (a)(3). Once the cash from such payments is spent, this provision does not apply to items purchased with the money, even if the period described above has not expired.

(iii) Unspent money from those cash payments identified in this paragraph (a)(3) must be identifiable from other resources for this provision to apply. The money may be commingled with other funds, but if this is done in such a fashion that an amount from such payments can no longer be separately identified, that amount will count toward the resource limit described in §416.1205.

(4) Death benefits, including gifts and inheritances, received by an individual, to the extent that they are not income in accordance with paragraphs (e) and (g) of §416.1121 because they are to be spent on costs resulting from the last illness and burial of the deceased, are not resources for the calendar month following the month of receipt. However, such death benefits retained until the first moment of the second calendar month following their receipt are resources at that time.

(b) *Liquid resources.* Liquid resources are cash or other property which can be converted to cash within 20 days, excluding certain nonwork days as explained in §416.120(d). Examples of resources that are ordinarily liquid are stocks, bonds, mutual fund shares, promissory notes, mortgages, life insurance policies, financial institution accounts (including savings, checking, and time deposits, also known as certificates of deposit) and similar items. Liquid resources, other than cash, are

evaluated according to the individual's equity in the resources. (See § 416.1208 for the treatment of funds held in individual and joint financial institution accounts.)

(c) *Nonliquid resources.* (1) Nonliquid resources are property which is not cash and which cannot be converted to cash within 20 days excluding certain nonwork days as explained in § 416.120(d). Examples of resources that are ordinarily nonliquid are loan agreements, household goods, automobiles, trucks, tractors, boats, machinery, livestock, buildings and land. Nonliquid resources are evaluated according to their equity value except as otherwise provided. (See § 416.1218 for treatment of automobiles.)

(2) For purposes of this subpart L, the *equity value* of an item is defined as:

(i) The price that item can reasonably be expected to sell for on the open market in the particular geographic area involved; minus

(ii) Any encumbrances.

[40 FR 48915, Oct. 20, 1975, as amended at 44 FR 43266, July 24, 1979; 48 FR 33259, July 21, 1983; 52 FR 4283, Feb. 11, 1987; 52 FR 16845, May 6, 1987; 53 FR 23231, June 21, 1988; 56 FR 36001, July 30, 1991; 57 FR 35461, Aug. 10, 1992; 57 FR 55089, Nov. 24, 1992; 59 FR 27988, May 31, 1994]

§ 416.1202 Deeming of resources.

(a) *Married individual.* In the case of an individual who is living with a person not eligible under this part and who is considered to be the husband or wife of such individual under the criteria in §§ 416.1802 through 416.1835 of this part, such individual's resources shall be deemed to include any resources, not otherwise excluded under this subpart, of such spouse whether or not such resources are available to such individual. In addition to the exclusions listed in § 416.1210, we also exclude the following items:

(1) Pension funds that the ineligible spouse may have. *Pension funds* are defined as funds held in individual retirement accounts (IRA), as described by the Internal Revenue Code, or in work-related pension plans (including such plans for self-employed persons, sometimes referred to as Keogh plans);

(2) For 9 months beginning with the month following the month of receipt,

the unspent portion of any retroactive payment of special pay an ineligible spouse received from one of the uniformed services pursuant to 37 U.S.C. 310; and

(3) For 9 months beginning with the month following the month of receipt, the unspent portion of any retroactive payment of family separation allowance an ineligible spouse received from one of the uniformed services pursuant to 37 U.S.C. 427 as a result of deployment to or service in a combat zone (as defined in § 416.1160(d)).

(b) *Child*—(1) *General.* In the case of a child (as defined in § 416.1856) who is under age 18, we will deem to that child any resources, not otherwise excluded under this subpart, of his or her ineligible parent who is living in the same household with him or her (as described in § 416.1851). We also will deem to the child the resources of his or her ineligible stepparent. As used in this section, the term “parent” means the natural or adoptive parent of a child, and the term “stepparent” means the spouse (as defined in § 416.1806) of such natural or adoptive parent who is living in the same household with the child and parent. We will deem to a child the resources of his or her parent and stepparent whether or not those resources are available to him or her. We will deem to a child the resources of his or her parent and stepparent only to the extent that those resources exceed the resource limits described in § 416.1205. (If the child is living with only one parent, we apply the resource limit for an individual. If the child is living with both parents, or the child is living with one parent and a stepparent, we apply the resource limit for an individual and spouse.) We will not deem to a child the resources of his or her parent or stepparent if the child is excepted from deeming under paragraph (b)(2) of this section. In addition to the exclusions listed in § 416.1210, we also exclude the following items:

(i) Pension funds of an ineligible parent (or stepparent). *Pension funds* are defined as funds held in IRAs, as described by the Internal Revenue Code, or in work-related pension plans (including such plans for self-employed persons, sometimes referred to as Keogh plans);